

JAN 23 2009

A BILL FOR AN ACT

RELATING TO IMPOUNDMENT OF VEHICLES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that there is a need to
2 address problems created by uninsured motorists and vehicles,
3 and drivers that fail to adhere to important safety-related
4 requirements. The purpose of this Act is to authorize the
5 director of finance or a police officer to impound a vehicle
6 where there is a failure to comply with specified sections of
7 chapter 286 or chapter 431:10C, Hawaii Revised Statutes.

8 SECTION 2. Section 286-25, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§286-25 Operation of a vehicle without a certificate of**
11 **inspection.** (a) Whoever operates, permits the operation of,
12 causes to be operated, or parks any vehicle on a public highway
13 without a current official certificate of inspection, issued
14 under section 286-26, shall be fined not more than \$100[-], and
15 the vehicle may be seized pursuant to subsection (b).

16 (b) If a person has been fined pursuant to subsection (a)
17 three or more times for the same vehicle without obtaining a



1 current official certificate of inspection, the vehicle may be
2 seized no earlier than the twentieth day after the first fine,
3 by the director of finance or by any police officer, and held
4 for a period of ten days, during which time the vehicle shall be
5 subject to redemption by its owner, by proving that a current
6 official certificate of inspection has been obtained and by
7 paying the applicable fines, cost of storage, and other charges
8 incident to the seizure of the vehicle. The director of
9 finance, chief of police, or any police officer shall be deemed
10 to have seized and taken possession of a vehicle, after having
11 securely sealed it where located and posted a notice upon the
12 vehicle, setting forth the fact that it has been seized for not
13 having a current official certificate of inspection, as required
14 under subsection (a), and warning all other persons from
15 tampering with the vehicle. Any person who tampers with or
16 disturbs any vehicle that has been seized pursuant to this
17 section shall be fined not more than \$500.

18 (c) All vehicles seized and sealed shall remain at the
19 place of seizure or at any other place that the director of
20 finance may direct, at the expense and risk of the owner. If
21 the owner of the vehicle fails to redeem it within ten days
22 after seizure, the vehicle may be sold by the director of



1 finance at public auction to the highest bidder for cash, after
2 giving ten days public notice in the county where the vehicle
3 was seized and by posting notices in at least three public
4 places in the district where the vehicle was seized; provided
5 that the requirements of public auction may be waived when the
6 appraised value of any vehicle is less than \$250, as determined
7 by the director of finance or an authorized representative, in
8 which case the vehicle may be disposed of in the same manner as
9 when a motor vehicle is put up for public auction and no bid is
10 received. The amount realized at the sale, less the amount of
11 the applicable fines, together with all costs incurred in giving
12 public notice, storing, and selling the vehicle, and all other
13 charges incident to the seizure and sale, shall be paid to the
14 owner of the vehicle. If no claim for the surplus is filed with
15 the director of finance within sixty days from the date of the
16 sale, the surplus shall be paid into the county treasury as a
17 government realization and all claim to that sum shall
18 thereafter be forever barred.

19 (d) Any vehicle impounded pursuant to this section shall
20 be released forthwith to the registered owner, without payment
21 of the applicable fines, cost of storage, and other charges



1 incident to the seizure of the vehicle, if the interests of
2 justice so require."

3 SECTION 3. Section 286-102, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§286-102 Licensing.** (a) No person, except one exempted
6 under section 286-105, one who holds an instruction permit under
7 section 286-110, one who holds a provisional license under
8 section 286-102.6, one who holds a commercial driver's license
9 issued under section 286-239, or one who holds a commercial
10 driver's license instruction permit issued under section
11 286-236, shall operate any category of motor vehicles listed in
12 this section without first being appropriately examined and duly
13 licensed as a qualified driver of that category of motor
14 vehicles.

15 (b) A person operating the following category or
16 combination of categories of motor vehicles shall be examined as
17 provided in section 286-108 and duly licensed by the examiner of
18 drivers:

- 19 (1) Mopeds;
- 20 (2) Motorcycles and motor scooters;
- 21 (3) Passenger cars of any gross vehicle weight rating,
22 buses designed to transport fifteen or fewer



1 occupants, and trucks and vans having a gross vehicle
2 weight rating of fifteen thousand pounds or less; and
3 (4) All of the motor vehicles in category (3) and trucks
4 having a gross vehicle weight rating of fifteen
5 thousand one through twenty-six thousand pounds.

6 A school bus or van operator shall be properly licensed to
7 operate the category of vehicles that the operator operates as a
8 school bus or van and shall comply with the standards of the
9 department of transportation as provided by rules adopted
10 pursuant to section 286-181.

11 (c) No person shall receive a driver's license without
12 surrendering to the examiner of drivers all valid driver's
13 licenses in the person's possession. All licenses so
14 surrendered shall be returned to the issuing authority, together
15 with information that the person is licensed in this State;
16 provided that with the exception of driver's licenses issued by
17 any Canadian province, a foreign driver's license may be
18 returned to the owner after being invalidated pursuant to
19 issuance of a Hawaii license; and provided further that the
20 examiner of drivers shall notify the authority that issued the
21 foreign license that the license has been invalidated and
22 returned because the owner is now licensed in this State. No



1 person shall be permitted to hold more than one valid driver's
2 license at any time.

3 (d) Before issuing a driver's license, the examiner of
4 drivers shall complete a check of the applicant's driving record
5 to determine whether the applicant is subject to any
6 disqualification under section 286-240, or any license
7 suspension, revocation, or cancellation under state law, and
8 whether the applicant has a driver's license from more than one
9 state or jurisdiction. The record check shall include but is
10 not limited to the following:

- 11 (1) A check of the applicant's driving record as
12 maintained by the applicant's state of licensure;
- 13 (2) A check with the commercial driver license information
14 system;
- 15 (3) A check with the National Driver Register; and
- 16 (4) If the driver is renewing a commercial driver's
17 license for the first time after September 30, 2002, a
18 request for the applicant's complete driving record
19 from all states where the applicant was previously
20 licensed to drive any motor vehicle over the last ten
21 years; provided that a notation is made on the driving



1 record confirming the check has been made and the date
2 it was done.

3 (e) In addition to other qualifications and conditions by
4 or pursuant to this part, the right of an individual to hold a
5 motor vehicle operator's license or permit issued by the county
6 is subject to the requirements of section 576D-13.

7 Upon receipt of certification from the child support
8 enforcement agency pursuant to section 576D-13 that an obligor
9 or individual who owns or operates a motor vehicle is not in
10 compliance with an order of support as defined in section 576D-1
11 or has failed to comply with a subpoena or warrant relating to a
12 paternity or child support proceeding, the examiner of drivers
13 shall suspend the license and right to operate motor vehicles
14 and confiscate the license of the obligor. The examiner of
15 drivers shall not reinstate an obligor's or individual's license
16 until the child support enforcement agency, the office of child
17 support hearings, or the family court issues an authorization
18 that states the obligor or individual is in compliance with an
19 order of support or has complied with a subpoena or warrant
20 relating to a paternity or child support hearing.

21 (f) If a person fails to comply with subsection (a), the
22 motor vehicle may be seized by the director of finance or by any



1 police officer and held for a period of ten days, during which
2 time the vehicle shall be subject to redemption by its owner, by
3 paying the applicable cost of storage and other charges incident
4 to the seizure of the vehicle and, if the owner was the driver
5 of the motor vehicle at the time of seizure, by also proving
6 that a valid license to operate the motor vehicle has been
7 obtained. The director of finance, chief of police, or any
8 police officer shall be deemed to have seized and taken
9 possession of any motor vehicle, after having securely sealed it
10 where located and posted a notice upon the motor vehicle,
11 setting forth the fact that it has been seized for operation by
12 a driver not duly licensed, as required under subsection (a),
13 and warning all other persons from tampering with the vehicle.
14 Any person who tampers with or disturbs any vehicle that has
15 been seized pursuant to this section shall be fined not more
16 than \$500.

17 (g) All vehicles seized and sealed shall remain at the
18 place of seizure or at any other place that the director of
19 finance may direct, at the expense and risk of the owner. If
20 the owner of the vehicle fails to redeem it within ten days
21 after seizure, the vehicle may be sold by the director of
22 finance at public auction to the highest bidder for cash, after



1 giving ten days public notice in the county where the motor
2 vehicle was seized and by posting notices in at least three
3 public places in the district where the motor vehicle was
4 seized; provided that the requirements of public auction may be
5 waived when the appraised value of any vehicle is less than
6 \$250, as determined by the director of finance or an authorized
7 representative, in which case the motor vehicle may be disposed
8 of in the same manner as when a motor vehicle is put up for
9 public auction and no bid is received. The amount realized at
10 the sale, less the costs incurred in giving public notice,
11 storing, and selling the motor vehicle, and all other charges
12 incident to the seizure and sale, shall be paid to the owner of
13 the motor vehicle. If no claim for the surplus is filed with
14 the director of finance within sixty days from the date of the
15 sale, the surplus shall be paid into the county treasury as a
16 government realization and all claim to that sum shall
17 thereafter be forever barred.

18 (h) Any vehicle impounded pursuant to this section shall
19 be released forthwith to the registered owner, without payment
20 of the applicable cost of storage and other charges incident to
21 the seizure of the motor vehicle, if the interests of justice so
22 require.



1 (i) The licensing authority may adopt rules pursuant to
2 chapter 91 to implement and enforce the requirements of this
3 section."

4 SECTION 4. Section 286-116, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"§286-116 License, insurance identification card,**
7 **possession, exhibition.** (a) Every licensee shall have a valid
8 driver's license in the licensee's immediate possession at all
9 times, and a valid motor vehicle or liability insurance
10 identification card applicable to the motor vehicle operated as
11 required under section 431:10C-107 and section 431:10G-106, when
12 operating a motor vehicle, and shall display the same upon
13 demand of a police officer. Every police officer or law
14 enforcement officer when stopping a vehicle or inspecting a
15 vehicle for any reason shall demand that the driver or owner
16 display the driver's or owner's driver's license and insurance
17 identification card. No person charged with violating this
18 section shall be convicted if the person produces in court, or
19 proves from the proper official or other records that the person
20 was the holder of a driver's license or a motor vehicle or
21 liability insurance identification card and policy conforming to
22 article 10C and article 10G of chapter 431 or a certificate of



1 self-insurance issued by the insurance commissioner pursuant to
2 section 431:10C-107 and section 431:10G-103, theretofore issued
3 to the person and valid at the time of the person's arrest.

4 (b) At any time a law enforcement officer finds a motor
5 vehicle in operation by a driver not in possession of the motor
6 vehicle or liability insurance identification card required
7 under section 431:10C-107 and section 431:10G-106, the officer
8 shall issue a citation with the earliest possible date for court
9 appearance in every instance.

10 (c) In all instances in which a citation shall be issued
11 under subsection (b), whenever the driver cited is not found to
12 be the registered owner of the motor vehicle under operation,
13 the citation shall also be issued to the driver as the owner's
14 agent and to the registered owner of the motor vehicle.

15 Whenever the registered owner of any motor vehicle permits any
16 person to operate the registered owner's motor vehicle, the
17 registered owner appoints, designates, and constitutes the
18 driver the registered owner's agent for all purposes under this
19 section and section 431:10C-107, section 431:10G-106, and
20 section 805-13.

21 (d) The operation of any motor vehicle required to be
22 licensed on a highway by a driver, whether or not licensed, who



1 knows, or has reason to believe, that the motor vehicle is not
2 insured in compliance with article 10C and article 10G of
3 chapter 431, shall constitute a violation of this chapter.

4 (e) Any registered owner of any motor vehicle required to
5 be licensed, who directly or indirectly permits the operation of
6 ~~[such]~~ the motor vehicle on any highway at any time the motor
7 vehicle is not insured in compliance with article 10C and
8 article 10G of chapter 431, shall be guilty of a violation of
9 this chapter. The registered owner shall, in all cases, be
10 presumed to know whether a motor vehicle is insured in
11 compliance with article 10C and article 10G of chapter 431.

12 (f) Notwithstanding any other law to the contrary, if a
13 person fails to display a valid insurance identification card as
14 required under subsection (a), the motor vehicle may be seized
15 by the director of finance or by any police officer, and held
16 for a period of ten days, during which time the motor vehicle
17 shall be subject to redemption by its owner, by paying the
18 applicable cost of storage and other charges incident to the
19 seizure of the motor vehicle and by also showing a valid
20 insurance identification card, as required under subsection (a).
21 The director of finance, chief of police, or any police officer
22 shall be deemed to have seized and taken possession of any motor



1 vehicle, after having securely sealed it where located and
2 posted a notice upon the motor vehicle, setting forth the fact
3 that it has been seized for failure to display a valid insurance
4 identification card, as required under subsection (a), and
5 warning all other persons from tampering with the vehicle. Any
6 person who tampers with or disturbs any motor vehicle that has
7 been seized pursuant to this section shall be fined not more
8 than \$500.

9 (g) All vehicles seized and sealed shall remain at the
10 place of seizure or at any other place that the director of
11 finance may direct, at the expense and risk of the owner. If
12 the owner of the motor vehicle fails to redeem it within ten
13 days after seizure, the motor vehicle may be sold by the
14 director of finance at public auction to the highest bidder for
15 cash, after giving ten days public notice in the county where
16 the motor vehicle was seized and by posting notices in at least
17 three public places in the district where the vehicle was
18 seized; provided that the requirements of public auction may be
19 waived when the appraised value of any motor vehicle is less
20 than \$250, as determined by the director of finance or an
21 authorized representative, in which case the vehicle may be
22 disposed of in the same manner as when a motor vehicle is put up



1 for public auction and no bid is received. The amount realized
2 at the sale, less the costs incurred in giving public notice,
3 storing, and selling the vehicle, and all other charges incident
4 to the seizure and sale, shall be paid to the owner of the motor
5 vehicle. If no claim for the surplus is filed with the director
6 of finance within sixty days from the date of the sale, the
7 surplus shall be paid into the county treasury as a government
8 realization and all claim to that sum shall thereafter be
9 forever barred.

10 (h) Any vehicle impounded pursuant to this section shall
11 be released forthwith to the registered owner, without payment
12 of the applicable cost of storage and other charges incident to
13 the seizure of the vehicle, if the interests of justice so
14 require."

15 SECTION 5. Section 431:10C-104, Hawaii Revised Statutes,
16 is amended to read as follows:

17 **"§431:10C-104 Conditions of operation and registration of**
18 **motor vehicles.** (a) Except as provided in section 431:10C-105,
19 no person shall operate or use a motor vehicle upon any public
20 street, road, or highway of this State at any time unless ~~[such]~~
21 the motor vehicle is insured at all times under a motor vehicle
22 insurance policy.



1 (b) Every owner of a motor vehicle used or operated at any
2 time upon any public street, road, or highway of this State
3 shall obtain a motor vehicle insurance policy upon [~~such~~] the
4 vehicle [~~which~~] that provides the coverage required by this
5 article and shall maintain the motor vehicle insurance policy at
6 all times for the entire motor vehicle registration period.

7 (c) Any person who violates the provisions of this section
8 shall be subject to the provisions of section 431:10C-117(a).

9 (d) The provisions of this article shall not apply to any
10 vehicle owned by or registered in the name of any agency of the
11 federal government, or to any antique motor vehicle as defined
12 in section 249-1.

13 (e) Notwithstanding any other law to the contrary, if a
14 person fails to comply with subsection (a), the motor vehicle
15 may be seized by the director of finance or by any police
16 officer and held for a period of ten days, during which time the
17 motor vehicle shall be subject to redemption by its owner, by
18 paying the applicable cost of storage and other charges incident
19 to the seizure of the vehicle and by also proving that a valid
20 motor vehicle insurance policy has been obtained. The director
21 of finance, chief of police, or any police officer shall be
22 deemed to have seized and taken possession of any vehicle, after



1 having securely sealed it where located and posted a notice upon
2 the motor vehicle, setting forth the fact that it has been
3 seized for failure to have a valid motor vehicle insurance
4 policy, as required under subsection (a), and warning all other
5 persons from tampering with the vehicle. Any person who tampers
6 with or disturbs any vehicle that has been seized pursuant to
7 this section shall be fined not more than \$500.

8 (f) All vehicles seized and sealed shall remain at the
9 place of seizure or at any other place that the director of
10 finance may direct, at the expense and risk of the owner. If
11 the owner of the motor vehicle fails to redeem it within ten
12 days after seizure, the motor vehicle may be sold by the
13 director of finance at public auction to the highest bidder for
14 cash, after giving ten days public notice in the county where
15 the motor vehicle was seized and by posting notices in at least
16 three public places in the district where the motor vehicle was
17 seized; provided that the requirements of public auction may be
18 waived when the appraised value of any vehicle is less than
19 \$250, as determined by the director of finance or an authorized
20 representative, in which case the vehicle may be disposed of in
21 the same manner as when a motor vehicle is put up for public
22 auction and no bid is received. The amount realized at the



1 sale, less the costs incurred in giving public notice, storing,
 2 and selling the motor vehicle, and all other charges incident to
 3 the seizure and sale, shall be paid to the owner of the motor
 4 vehicle. If no claim for the surplus is filed with the director
 5 of finance within sixty days from the date of the sale, the
 6 surplus shall be paid into the county treasury as a government
 7 realization and all claim to that sum shall thereafter be
 8 forever barred.

9 (g) Any motor vehicle impounded pursuant to this section
 10 shall be released forthwith to the registered owner, without
 11 payment of the applicable cost of storage and other charges
 12 incident to the seizure of the vehicle, if the interests of
 13 justice so require."

14 SECTION 6. This Act does not affect rights and duties that
 15 matured, penalties that were incurred, and proceedings that were
 16 begun, before its effective date.

17 SECTION 7. Statutory material to be repealed is bracketed
 18 and stricken. New statutory material is underscored.

19 SECTION 8. This Act shall take effect upon its approval.

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INTRODUCED BY:

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Report Title:

Motor Vehicle; Impound; Seizure; Insurance; Safety Check;
License

Description:

Authorizes and sets forth procedures for impounding a motor vehicle after a person has been fined three or more times for operating a vehicle without a valid certificate of inspection, or for operating a vehicle without being duly licensed, without a valid insurance card, or without a valid insurance policy.

